P 17

File No. L & S. 37.5 of 1892
Serial Nos. 1 to 5.

1904.05

GENERAL AND REVENUE SECRETARIAT.

(Municipal)

Part A: Manuscript
for November 1904.

Serial Nos.

Laha reference.
Col (86-17) 25 1-4
Legislative Notes

G. S. 11]

1904. 5

GENERAL AND REVENUE SECRETARIAT.

~~Revenue~~ Local Boards

NOTES.

File No. 3759. 1892 ~~Jud~~

FILE HEADING.

Framing of Cattle Pounds in Amrit Mahal Kavals.

From The Military Assistant to the Govt of Mysore

No. 2500 Dated 8-2-1902 Received 9-2-1902

ary No.	Enclos.	Spare Copies.	Serial No 1

BRIEF ABSTRACT OF LETTER.

Submits for orders of Govt the Correspondence received from the Superintendent of the Amrit Mahal Department in re- the framing of Cattle Pounds in Amrit Mahal Kavals -

NOTES AND ORDERS.

MGCPB—2500-18-8-04

of the Dewan of Mysore.

No. (if any) LA 375-92

rections.

No., date and purport of re-
ts to be entered in red, and
e note in black ink in order
ates.—To be written only on
side, and inside the line of
gin.

Office Note.

Branch. (General)

Subject

A provision of Rs 2000 to be made in the next Budget Estimates for erecting Cattle Pounds in some important Amrit Mahal Kavals

Military Asstt docket No 2500 dated the 8th Feb 1894

In view to prevent trespass of cattle in Sankeghatta and other Amrut Mahal Kavals, the Amrut Mahal Suite proceeded to the Dy Comr of Bangalore to open a cattle pound at Tippasandra village in Magadi Taluk. The Dy Comr at first consented, for an estimate made for Rs 240 and enquired of the A he Deptt would bear the cost to which a reply in the affirmative was given with a promise that the realization of the pound should be credited to the A he Deptt Thereupon the Dy Comr declined

to comply with the Provincial Law
the ground that the realization
should be credited to the L.F.D.

2. The Subb further states that
the Forest Dibb have, with the
permission of the Dist Magte.
opened cattle pounds at the
expense of that Dibb and realis-
ations thereof are being
credited to the Forest Dibb

3. Similarly, the Subb. in
the interest of local cattle and
in view of conserving grass
by preventing trespass, desires
to erect cattle pounds at the
expense of the Dibb as he
finds that they are absolutely
necessary

4 - For the foregoing reasons
the Subb requests that a provision
of Rs 2000 may be made in
the next yrs budget Estimates
to meet the cost of erection
of cattle pounds which can
be recouped by pound
realization being credited to
the Dept

5. The Military Asstt forwards
the above for disposal

~~Note continued~~

6. In connection with the above it is submitted that the following informations may be called for.

(1) A list of pounds proposed to be erected

(2) The probable cost of erection of each pound

(3) The annual estimate of realizations of each pound

A draft calling for these above informations is submitted

15/2 7. Asst Forest Secty what is the practice in his Deptt as regards Cattle pounds in Forests

29/2/04

8 Draft put up and approved by the Hg Secretary was issued on 19.3.1904.

2/3

9. The Forest Secretary in reply to this Office Docket No G 4663 & 1930 4 states in his letter No 7914/8952 dy the 3 April 1904 that Forest Cattle Pounds are constructed at the cost of the Forest Department heither or in the vicinity of State Forests where Revenue Pounds happen to be located

for

far away from them, that only cattle trespassing in State Forests and Plantations without licenses are impounded in these pounds and no others and that the realizations from these pounds are credited to the Forest Department which bears the cost of constructing and maintaining them.

10. The authority for the above procedure quoted by the Forest Secretary is Note No 206 dated the 9th October 1889 framed under Sec 11, ~~and 119~~ of the Forest Rules of 1878, and Sec 63 of the Forest Regulation of 1900. The Notification of 9th Octr 1889 is said to be still in force.

11 Section 14 of the Rules of 1878 ~~stat~~ was to the effect that all fines on cattle trespassing in State Forests should be credited to the Forest Department. There is no corresponding provision in the Forest Regulation of 1900. By Sec Clause (5) of the new Regulation, the Forest Rules of 1878 in full and the Subsidiary Rules prescribed and notifications published under the old rules, excepting so far as they are not inconsistent with

the new Regulation, were repealed

~~It~~ Section 63 of the new Regulation referred to by the Forest Secretary states that Sec 11 of the Cattle Trespass Regulation shall apply to cattle trespassing in State, Village or District Forests and Sec 6 gives powers Government to enhance the fines fixed by ~~the~~ Sec 12 of the latter Regulation It is not clear how the ~~fines to be~~ realizations from pounds established by the Forest department can now be credited to the Forest Department as that Department is compensated for any damage caused to the Forest by a levy of fine from the owner of the trespassing cattle under Sec 24 of the new Forest Regulation.

12 Under Note No 15783 / 2 & the LR 3775-92 15th March 1894, it is the President of Municipal and District Boards who can, subject to the general control of Govt, establish cattle pounds wherever necessary, the ~~surplus proceeds~~ realizations from pounds going to Municipal or District Funds as the case may be.

13. The Amrut Mahal department may with the permission of the Dist

the Presidents of Distr~~ict~~ and Municipal Boards
~~District Magistrate~~ A open pounds
are wherever necessary, both the pro-
ceeds from the pounds being
credited to District Funds.

Submitted for orders

H.B.L.
6.5.04

(14) The Notification
of 15th March 1894, No 15283 ×
L.7.375-92
Which supersedes the Notification
of the 9th October 1889, No 206 ⊗
alluded to by the Hon Secretary,
~~Forest~~ Department, clearly lays
down that certain powers &
functions exercised by District
Magistrates should hereafter
be exercised by the Presidents
of Municipal & District Fund
Boards in regard to Pounds
situate within the local juris-
-diction of their respective Boards

~~A.X.~~

Cl 15 of the ~~A~~ V
by Manual

This being so, it cannot be
understood how the Forest
Department has been crediting
the fines ~~has~~ to the Forest Revenue
& when the General District Fund

to address their claims or
Boards failed to give effect to
the orders of 1894, as it is no where
laid down that Forests do not
come within the local jurisdiction
of the respective Boards.

15. Under Section 20 of the
New Local Boards Regulation
II of 1902 fines & surplus proceeds
of sale of Cattle under the
Cattle trespass Act, 1871, as amended
by Regulation VIII of 1892 form
a portion of the District Fund
& the word "District" is defined
in Section 2 of the said Regulation.
Unless 'Forests' are excluded
from the definition "District"
it seems reasonable that the
present practice of crediting the
fines &c to Forest Revenue should
be put a stop to, the District
Boards undertaking to maintain
the Cattle Pounds opened & supervised by the
Forest Department, from the
Surplus proceeds from fines &c

Circulated to these own trends

Submitted for orders.

(sd) H Ramaiya

9/5/011

16. Dear Mr. Chandrasekhara Aiyar

May I trouble you for your opinion on this somewhat intricate matter?

Yrs sincerely

(sd) [illegible]

27/5/24

17. The Forest Regulation (barring section 64, which gives for: power to alter the rate of fine) does not override the provisions of the Cattle Trespass Act. And, inasmuch as the Notification of the 15th March 1894 (issued under the last mentioned Act) has vested in District Boards the power to establish, & control the working of, cattle pounds subject to the general control of Govt

the surplus receipts from fines and sale proceeds of impounded cattle, it is clear, as the law now stands, that neither the Forest nor any other Dept can establish funds without reference to the Boards concerned, or take credit for the surplus receipts referred to.

But then, under section 79 the Local Boards Regs., while the establishment & management of cattle pounds are made part of the duties of District Boards, the Govt has been empowered to make such exceptions and impose such conditions as it thinks fit; and, accordingly, it is quite competent to Government to except cattle pounds in Forests (or Amrit-Mahals) from the jurisdiction of District Boards, and to leave the same under the control of the District Board subject to the general control of Government.

Sale proceeds

~~Dr A of other Depts~~ / In this case
the Notice of 15-3-94 will have
to be suitably modified, so as to
bring it into line with the exemption proposed to be
made under section 7 of the Local Bdo Restn
Act. Even as it is, however,
I find nothing to absolutely
prevent the establishment of
departmental pounds, provided
that the permission of the District
Board concerned is obtained.
If the Board acts perversely,
there is the fact which can
interfere in the exercise of its
powers of general control.
19 Who should bear the cost
of constructing such pounds is rather
a matter of principle, but one
of convention and convenience
merely. And attention may be
drawn to section 18 of the Cattle
Trespass Act, under which the
expenses incurred in constructing
and maintaining pounds as well
as in payment of salaries to pound-
keepers, must first be exempted
from the collections from fines,
sale proceeds and the balance right

20. The action to be taken in the present case (the establishment of pounds is the Amrit Mahal dept.) will depend upon whether Govt. will let the law remain as it is, or will amend it as indicated above (para 18).

See Rule 7 of Rules of 1894

Mr Chandrasekhara
29.5.04.

Noted
29/5/04

Submitted to the Revenue
through the 1st Class Mr
30/5/04

21. ~~22.~~ The question of Forest Pounds or of how they are managed and their realization dealt with, has been raised in connection with certain pounds proposed to be established by the Amrit Mahal dept. as at present a dispute of the Dy Collr's decision. Let Mr. Chandrasekhara Iyer however see me with the file in the office tomorrow — C.

31/5/04.

22. I have attended the question with Mr Chandrasekhara Iyer & think that relates to no longer the pounds

on the Forest Rules of 1878
& Subsidiary Rules of 1889. At
the same time it does not seem
expedient that Local Boards
should be given any jurisdic-
tion or control over Forest
or other departmental grounds.
An exception under section
7 of the L. Bdy Regulation
with a corresponding amend-
ment of the Notification
of 15/3/94 will meet all
reasonable requirements.
The District Magistrate
will then have the powers &
he will exercise it subject
to the general control of
Govt. (section 4 of the
Local Self Govt Act). He
can establish departm-
ental grounds in con-
sultation with the
Depts concerned. He
can determine a fair
as rental keeping suitable
reserves periodically the
nominees of the Departmental
Officers concerned. After
meeting expenses, the
surplus will go to the

District Funds under section 18 of the Local Treasury Act and 20 (1-b-ii) of the L.B. Regulations. This seems to be the only legal arrangement possible & its enforcement is not liable to cause any inconvenience to the persons concerned or loss of revenue to local bodies. Mr. Chandra-Sekhara Iyer will please draw up the necessary notifications & orders & show them to me before submission to the Dewan.

1-6-04

23. Two drafts submitted.

24. Draft approved. The District Magistrate will consult the Commissioners the wards concerned will have a voice in their upkeep & management & the surplus will go to Local Boards.

1816/6.6.04. Submitted to the Dewan 4/6/04

3/6/04.

1920 I

25. Please read Sections 10 & 11 underwritten alone carefully & then compound themselves (with the Forest Settlements) to state briefly the matter of what Forest Settlements observed (can be - & also what Forest Rights & Forest Villages come within this description - & then discuss this point - What is the object of exclude such rights from the operation of this - and Explanation under clause (2) of Sec. 1 ? Does it mean, done may be done if we have an Act under the Forest Act, & make rule, such as there made in 1879. If not cannot be under (a) Sec 31 transfer with - Forest & then it is the power of this Act to do, otherwise there will be conflict & doubt as to the validity of the Settlements & Forest Rights

J. W. D.

1 The Dy Secy. Ill 9/10/04

26. State Forests, District Forests, reserved lands, and Amrit Mahal Kavals come under the description of "public plantations ... and the like" alluded to in section 11 of the Cattle Trespass Regulation. Indeed, section 63 of the Forest Regulation expressly enacts that "cattle trespassing in a State or Village Forest, or in a District Forest contrary to the provisions of the rules made thereunder, shall be deemed to cattle doing damage to a public plantation within the meaning of section 11 of the Cattle Trespass Act., and may be seized and impounded as such by any Forest Officer" Police Officer."

27. The trees in question could have been excluded from the operation of the Cattle Trespass Act were it not for the fact that Chapter VIII of the Forest Regulation necessarily implies that the law applicable to such trees in respect of trespasses by cattle is the Cattle Trespass Act. This being so, the power to frame rules in substitution of or inconsistent with the provisions of that Act cannot be presumed to have been conferred by the Forest Reg

which the functions of the District Magistrate can be transferred under section 31(a) of the Cattle Trespass Act- (it must be a local authority; that an expression defined in section 3 as meaning "any body of persons for the time being invested by law with the control and administration of any matter within a specified local area" [and, it may be added, with the control and management of a "local fund."]: such a body, for example, as a District Board or an Improvement Trust- created by statute- It cannot, I venture to think, apply to an executive department of Government like the Trust or Administrative dept.

1398
11-8-04

J. D. Sim Thos
15/8/04

H. Erskine Holderness
11/8/04

29. I agree with the Deputy Secretary of the Board concerned can be called "a local authority" within the meaning of section 3 of the Cattle Trespass Act"

30. The areas mentioned in

the said Act.

31. The Forest Department requests that cattle trespass cases should be dealt with under the Cattle Trespass Act.

13/6/04.

18322/14.6.04

13/6/04

1979

32. Have before a meeting of Council open air. The point is not clear to my mind. The word used in the Tamil version is "impound" 5.VI.04. The word in the cattle trespass Act is "seize" and other "impounded" cattle

17/6/04

76-7 M 6.9.11

33. Circulated to the Council on 18.6.1904. (Sd) L. Arcaulay Addl Offg Secretary

34. To Council

(Sd.) B.K. Venkatarama Ayyar
20.6.1904.

35. But how are cattle trespass dealt with in Madras and other Provs of British India. If the Conservator knows ascertain unofficially

(Sd) P.N.K. 13.7.1904

36. Forwarded to the Conservator unofficially for favour of reply to the above query. 15.7.1904

(Sd) B.K. Venkataramanadoreungar

Annexed to the 18th Councillor Tel.

No 1

o., date and purport of receipts to
tered in red, and office note in black
order of dates.—To be written only
e side, and inside the line of margin.

Subject. Unofficial reference from 18
the General and Revenue Secretary
requesting to be informed as to how
Cattle trespass cases dealt with in
Madras and other provinces of
British India.

37

Cattle trespassing in Black Forest
(in British India) Inter-al licenses are issued and
impounded in the District-Board
pounds - and their owners are either
prosecuted under the provisions of
the Forest Act or the Offence compound
Except in serious cases of repeated
ties not usual to take any further
steps after impounding
Our Regulations also do not provide
for any Forest pounds, but the existing
ones are maintained for the old
rules

Chief Conservator of Forests

16. 7 04

2d. the Genl. & Rev. to 9

Chief
18/7

3

General and Revenue Secretariat.

File No. of 190

Serial No.

39. Submitted to the Diwan Sahib (Current matters)

423/227 M

C. 24.7

40 My Dear Sreenivasangar

Before submitting the enclosed* note to His Highness I have thought it best to show it to you. As far as I can judge the reasoning seems to be correct.

Yours very sincerely
(Sd) P. N. Krishna Murthi
16.9.1902.

* Nos 41 & 51

SUBMITTED TO HIS HIGHNESS.

(Referred to the 1st Cr for Opinion before Submission)

46. The questions for decision are:-

Firstly, whether, independently of the Local Boards, the Forest Department cannot establish and control, under the existing laws and rules, cattle pounds for the areas within their jurisdiction;

secondly, whether a similar arrangement is not legally possible in the case of Amrit Mahal Kavals.

47. The solution of these questions depends upon the following:-

(a) Whether the subsidiary rules framed and the Notifications published under the Chief Commissioner's "Rules for the administration of Forests and waste lands in the Territories of His Highness the Maharaja" are still in force;

(b) the relation between Sections 63 and 64 of the Forest Regulation No.XI of 1900 and the Cattle Trespass Act Regulation No.VIII of 1892;

(c) the relation of these two to the Local Boards Regulation No.II of 1902.

48. In three different ways it can be established that the subsidiary rules framed and the Notifications published under the Rules of 1878 are still in force. It is true that the basis on which the former were framed and published was expressly repealed by Clause (5) of Section 1 of the Forest Regulation. It is equally true that the subsidiary rules framed and the Notifications published under the Rules of

are expressly saved by the same clause, to the extent that they are not inconsistent with Regulation No.X of 1900.

44. Secondly, Government Proceedings No. Forest 347-55 - 1792-800, dated the 14th November 1901, passed long after the Cattle Trespass Regulation and the Forest Regulation were passed, show the view held by the Government. "In the Dasara Assembly of 1899, the Representative Members from the Chennapatna Taluk urged that the rates of fine and feeding charges levied in pounds situated in State Forests were heavy, and prayed that either the rates might be reduced to what they are for village pounds or that the cattle be impounded in village pounds and the proceeds credited to the Forest Department." The feeding rates fixed under Notification No.206, dated 9th ~~August~~ October '89, were then modified; but in para 2 of the Proceedings in question, the Government said that they did not consider it desirable "to abolish Forest Pounds or to remit or reduce the fines imposed in connection therewith"

45. Now this shows at once that the Cattle Trespass Regulation was not considered to have rendered the maintenance and the control of Forest pounds by Forest officers a legal impossibility, as is now thought.

46. Thirdly, the practice of maintaining and controlling Forest pounds by the Forest Department continues unaffected down to the present day: vide Conservator's letter No.794/8952, dated 30-4-'04, and the correspondence connected with the Government Forest Proceedings referred to in para

47. Next, is this view reconcileable with the provisions of the Forest Regulation and the Cattle Trespass

the affirmative for many reasons. In the first place Section 11 of the Cattle Trespass Act is not applicable to State Forests or District Forests, since these are not covered by any of the terms used therein, viz, "public roads, pleasure-grounds, plantations, canals, drainage works, embankments and the like". The only term which approaches natural grown Forests is "plantations", which is not as wide as the term "Forests". Hence, Section 63 of the Forest Regulation declares that "cattle trespassing in a State or Village Forest or in a District Forest contrary to the provisions of Section 35 and the rules made thereunder, shall be deemed to be cattle doing damage to a public plantation within the meaning of Section 11 of the Cattle Trespass Act".

~~17~~ 8. This doubtless legalizes the application of the provisions of the Cattle Trepass Act to Forest areas, but without over-riding those of the Forest Regulation or the rules framed thereunder. That this is the only correct view follows from the subjoined considerations:-

(a) If this view were incorrect, several special provisions for Forest Areas such as the subsidiary Forest rules still in force and Sections 35 and 64 of the Forest Regulation would become obselete.

(b) Under the Cattle Trepass Act, the act of impounding is that of the pound-keeper, while any other person can only seize the animal but under Section 66 of the Forest Regulation, a Forest or Police officer can seize and <u>impound</u> cattle trespassing into Forest areas. Without rendering the word "impound"

superfluous, it cannot be said that Forest pounds under the control of Forest officers are not legal institutions under the existing laws and rules; and such a construction would be opposed to the well-recognized rules of interpretation.

(c) When the Cattle Trespass Regulation became law in Mysore in 1892, the Notification of 1878 and the rules framed thereunder were not repealed but were in force till 1900, when the Forest Regulation repealed the former alone. Thus the Forest pounds were maintained under the Forest Department alongside those which fell within the scope of the Cattle Trespass Regulation.

(d) "The Rules for the Administration of Forest and waste lands in the Territories of His Highness the Maharaja of Mysore" were published on the 8th June 1878, i.e., six years after the Cattle Trespass Act of 1871 was introduced into Mysore. Thus, it is clear that the Cattle Trespass Act or the Cattle Trespass Regulation has been inapplicable to Forest pounds which are being regulated by separate provisions.

(Introduced by Notification No.58 J dated 5th Apri

49 48. The only conclusion deducible from these observations is that the provisions of the Cattle Trespass Regulation may be applied under Section 63 of the Forest Regulation to Forest pounds maintained by the Forest Department, but nothing precludes the Government from framing a separate set of rules, as occasion requires, for such pounds under Sections 35 and 76 of the Forest Regulation.

50 49. The next question is how does the Mysore Local Boards Regulation II of 1902 affect this view? It is plain that this does not touch Forest pounds at

all. Firstly, it does not expressly or impliedly repeal the provisions or the practice still in force regarding Forest pounds. Secondly, Section 7 of the Local Boards Regulation must be construed to have been enacted subject to the "exceptions and conditions" already existing or "as the Government may from time to time make ~~impose~~ any". Thirdly, the Local Boards Regulation ought to be so construed as not to render ~~nugatory~~ the provisions of the Forest Regulation or any Forest rules in force.

51 ~~50~~. Now the second question is about Amrit Mahal Kavals. They constitute "District Forests" within the meaning of ~~clause~~ 13 of Section 2 of the Forest Regulation; and did constitute "District Forests" under the Rules of 1878 repealed by the Forest Regulation. Amrit Mahal officers are Forest officers within the meaning of clause (i) of Section 2, Forest Regulation, which defines a "Forest officer". Amrit Mahal officers discharge many functions of a Forest officer, as laid down in the Forest Regulation. This reasoning places Amrit Mahal Kavals on the same basis as the Forests, i.e., Amrit Mahal cattle pounds may be established under the control of Amrit Mahal officers without any further action under the Cattle Trespass Act or the Mysore District Board Regulation. The rules applicable to Forest pounds will likewise apply ~~to~~ Amrit Mahal Kaval pounds.

16.12.04

I sent the above note with
12 Cullen and be repealed
by a draft Ordinance.

suggestion
contained
which is in accordance
my view is also
- mitted - I have given it very
careful consideration & it appears
to me that the view taken is
correct. As suggested by the Learned
Advocate a notification as
proposed by him may also be
issued.

21.1.04

51. My dear Srinivasa Iyengar

Before submitting the enclosed note to His Highness I have thought it best to show it to you. So far as I can judge the reasoning seems to be correct.

Yours very sincerely
(sd) V. N. Krishna Murti
16.9.1901

52. My dear Sir.

I beg to return your memo with thanks. With deference, I submit that I hesitate to subscribe to your views which in effect mean inter alia that the Cattle Trespass Regulation is restricted in its operation to private lands and to lands not under departmental grounds, that section 64 of the Forest Regulation applies only to grounds established by the Forest Department, that every

Translation to 50 supra.

Every Village Official is a Forest Officer even though he has not been appointed as such under the Forest Regulation, and that consequently every Forest Village Panchayat is a Forest Panchayat though not established under the Forest Regulation and Rules. I am not sure about the correctness of these propositions which are far reaching in their consequences after departments. Can in that case Claim to establish their own pounds and to call them Forest pounds, and we cannot reject their Claim without being inconsistent.

I do not propose to deal with your arguments seriatim as in my humble opinion the question is a most important one not free from doubt and difficulty, and should be referred for competent legal advice before further action is taken

Yours very Sincerely

(Sd) C Sreenivasa Gowda

16.9.1920

As suggested by the 1st Councillor the Govt. Advocate was consulted whose opinion is given below.

The Subsidiary Rules under Notification No: 206 dated 9th October 1889, are still in force, under Clause 5 of Sec: 1 of the Forest Regulation XI of 1900, as they are not inconsistent with the provisions of the Forest Regulation.

Under clause 2 of Section I of the Cattle Trespass Act of 1871, as amended by Regulation 8 of 1892, the act extends to the whole of the territories of Singpore except such local areas, as the Govt of Singpore by Notification in the Official Gazette

may from time to time
exclude from its operation.

The Notification
No: 206 dated 9th October
1889 excludes the forests
from the operation
of this Act, and it
has not since been
cancelled or varied
under Clause 3 of the
said Section.

Under Sec: 7 of the
Amended Local Boards
Regulation II of 1902,
every District Board
shall subject to such
exceptions & Conditions
as the Government
may from time to time

make and impose, provide
for the control and
administration of the
following matters within
the area subject to this
authority – "J. – the establish-
ment and management of
cattle pounds etc". When
this Act was passed, the
establishment & manage-
ment of cattle pounds in
forests was under the
"management of the Forest
Authorities, and as such
it cannot refer to the
control and administration
within the area, subject the
authority of the District
Board, and the Government
Laws; already by Notification
No: 206 dated 9th October 1889

recommend the forest
authorities, and as such
this might be considered
as an exception under
Sec: 7 of Regulation II of 1902.

Under Clause 13 of
Sec: 2 of the Forest Regulation
of 1900, the District Forest
includes all land at
the disposal of Government,
not included within the
limits of any State or
Village Forest, not assigned
at the Survey Settlement
as free grazing ground
or for any other Public
or Communal purpose.
Provided that if shall
be competent for Govern-
ment to modify or set
aside such assignment

and Constitute any such land a State, Village, or District Forest or above the same for any other purpose it may deem fit.

Under this Notification the Communities Kavad Lands come under the head of Dt. Forest and as such Lands have been given to a separate Department, the Subsidiary Rules framed under Notification No: 206 dated 7th October 1887 equally apply to that Department.

To avoid all doubts, and to make the point clear, a Notification under Sec: 31 of the Cattle

Cattle Trespass Act of
1871, as amended by
Regulation VII of 1892
may be published by
the Government
transferring the
functions of Government
and the Superintendent
the District under
the Act, to the Forest
and Municipal
Departments, and
excepting under Sec. 7
of the Supreme Local Boards
Regulation II of 1902,
Power to the Municipal
Boards from the Operation
of the said Act.

Dated the 9.1904 (paras 1.2 & 54)

Sent the above note to the 1st Councillor and he repeated his doubts. According to his suggestion the Government Advocate was consulted and his opinion which is in accordance with my view is also herewith submitted. I have given it very careful consideration and it appears to me that the view taken is correct. As suggested by the Government Advocate a Notification as proposed by him may also be issued

(Sd) P. M. K.

21. 9. 1904.

55. I accept the Diwan's opinion.

(Sd) K. R. W.

27. 9. 04

56. Orders accordingly

(Sd) P. M. K.

28. 9. 1904

57. To Branch III

Draft Accordingly

29. 9. 1904

58. Two drafts submitted.

H.K. S.N.J.
6 10.04

(Sd) H Ramaya
21. 10. 04.

59. Passed. (Sd) B. K. Vaidiyanathan Ayyar

314 60. Notification. No 3634 dt 1.11.04
Exempts from the Control
of Distt Boards the Cattle pounds
established in or in the vicinity
of State Forests, lands placed under
special protection under Sec 35
of the Mysore Forest Regulation
of 1900 and Amrit Mahal Kavals.

61. Govt Proceedings No ~~3635~~
3671-80 dt the 2.11.1904.

Orders that the Amrit
Mahal Department may
establish Cattle pounds in the
Amrit Mahal Kavals without
~~taking any further~~ action under
the Cattle Trespass Act or the
Mysore Local Boards Regu-
lation and that the rules
applicable to Forest pounds
~~shall~~ apply to Amrit Mahal
Pounds also.

G.2634

~~MILITARY ASSISTANT'S OFFICE,~~

~~No.~~ No.2500 ~~F.No.~~ Dated Bangalore, 8th February 1904.

From

LIEUT.-COLONEL R. G. JONES, I. S. C.,

Military Assistant to the Govt. of Mysore.

To

H.V. Nanjundayya Esquire., M.A.,B.L.,

Secretary to the Govt. of His Highness

the Maharaja of Mysore, General &

Revenue Departments.

has the honor to forward herewith Amrut Mahal Superintendent's letter together with its enclosures for disposal.

Lieut.-Colonel

Military Assistant.

G
9/2/04

~~Amrut Mahal Office~~

(Enclosures)

~~Cantt~~

2175

2/2/02

30th January 1902

~~2nd February 1902~~

(1.) Letter No 176 dt the 30th Jany 1902

~~From~~ from H. Vanjunda Raj Urs Esquire

Superintendent

Amrut Mahal Department

H V. Kanjundayya Esquire M.A.M.L.

Secretary—

to the government of H.H. the Maharaja of

Revenue and General Department

through the Military Assistant

Bangalore

~~Sir~~

I have the honor to inform you that application was made to the Deputy-Commissioner Bangalore District for

opening a cattle pound at Siffalandra

village in Nagadi Taluk with a view to

prevent trespass of cattle in Sankighatta

and other Amrut Mahal lands but of

all the Deputy Commissioner consented to

have one opened at the above

village and got estimate made for Rs 2907
Afterwards he asked me whether the Amrut
Mahal Department would bear the cost and an
affirmative reply was given provided that the
realization of the pound would be credited
to the Amrut Mahal Department. Now
he refuses to do so on the ground that the
realization should be credited to the
Local Fund Board.

I understand that the
Forest Department have opened certain
pounds at the expense of that
Department and that they are being
managed by the Forest Subordinates
with the permission of the District Magistrates
the realizations being credited to the Forest
Department.

In some of the most
important Karnatak it is impossible to
conserve grass preventing the trespass
of the village cattle owing to long distances

of cattle pounds and the opening of new
ones within easy distances of such Kavals
is absolutely necessary in the interests of
Government cattle I would therefor
request that sanction of Government
may be obtained for erecting cattle
Pounds in some of these Kavals at the
expense of the Department. These Pound
can be managed by the Amunt Kachat
Department similar to the practice
prevailing in the Forest Department

I further beg to state
that a sum of Rs 2000/- may be order
to be provided in the next year's Budget
Estimates to meet the cost of erection
of cattle Pounds in some important
Amunt Mahal Kavals The expenditure
under this head can be recouped by
pound realizations being credited
to the Department. The copies of the
correspondence passed between the

Department and the Deputy Commissioners
are herein submitted for ready reference.

I have the honor to be

Sir

your most obedient Servant

Thaing and Hayes

Superintendent

Amount Indian Department

St.

~~1402/03~~

(2) Docket No 705 of the 17th November

~~From~~

1902 from A H Sparke Esquire,

Deputy Commissioner

Bangalore District

To

H. Lanyon Rajus Esquire

Superintendent

Amrut Mahal Department

dated 17th November 1902.

Despatched

Received

General No

K. No 705

Enclosure re

His docket No 82 of the 10th November 1902, requesting that a cattle pound may be opened at Jaffarundra in the Huguda Taluk.

In reply I am the honour to state that instructions [illegible]

ussued to the Amildars
from) at Tiffasundra and plac
Patel of the place in charge of the form

(Sd) H. H Starkey
Deputy Commissioner
Bangalore Distr

Copy

Hmang Hall
Superintendent
Amrut Medical Depot

Docket No 1255 of the 12th December

1903 from H. H Sparkes Esquire

President of the Municipalities in the

Bangalore District

To

The Superintendent

Amrut Mahal Department

Bangalore

Dated 12 December 1903
Despatched
Received
General No
K. No 1255

Enclosure one

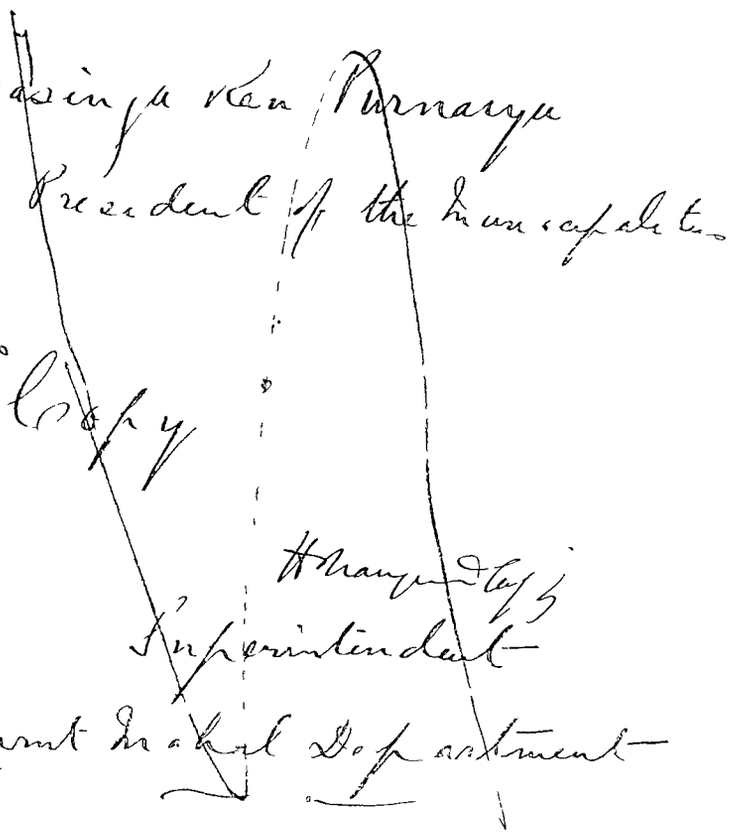
Re. dockets Nos 89 and 134 of 8th October and 4th December 1903, respectively, amount locating a cattle pound at Tippu Sandra village, Magadi Taluk.

In acknowledging the receipt of the above, I do the honor to request whether the Amrut Mahal Depart

"is prepared to say Rs 290/ being
of erecting a pound in the village
as under reference, and it is solely intended
for protecting the Sankichatta
Government Kanal.

The estimate prepared by
the Builder for the work is also
herein enclosed for reference and
return.

(Sd) Narasinga Rau Narayya
for President of the Municipality



Copy

H Thompson Esq
Superintendent
Amrut Medical Department

(4) Docket No 1903 04 1538 of the 18th December 1903

~~From~~ From The Superintendent
Amrut Mahal Department
Bangalore

To The President of the Municipality
Bangalore District

Dated 16th December 1903
Despatched 22nd December 1903
Received
General No 153
Enclosure No 1

Has No 1255 dated 12th Instant requesting to be informed whether the Amrut Mahal Department is prepared to pay Rs 290/- being the cost of erecting a pound at Siffasundra in Hayada Taluk

---

Referring to the above, I have the honor to request to be informed whether he has any objection to credit the fees derived from impound

cattle in pound to the
Department of the cost for erecting
t, as borne by the same.

The estimate sent with the
Corrected herewith returned

(Sd) H Hammond Hay
Superintendent
Armed Naval Department

"Copy"

H Hammond Esq
Superintendent
Armed Naval Department

~~4405-07~~ 12

(5) Docket No 1391 of the 5th January

~~Dom~~ 1908 from H H Sparkes Esquire

President of the Municipal Ste.

Bangalore District

To

H. Ranganada Roy Mysore

Superintendent

Annual Mahal Department

Dated 5th January 1908

Despatched 6th

Received

General No

R. No. 1391

Enclosure No one

His Docket No 1520 of 22nd December 1903 anent constructing a cattle pound at Jeffasandra village Magadi Taluk

---"---

In reply to the above, I do the honor to state that the cattle pounds are maintained both

for the benefit of the District Funds, and consequently any revenue derived from the pound under consideration can only be credited to District Funds only.

2 The estimate is, herewith, sent again for his sanction as the pound to be established is solely for the benefit of the Sankisankatta Government Amusement Kavel.

(Sd) H. H'Sparkes
President of the Municipality

Copy "

H Mayandy
Superintendent
Municipal Department

2.

190-

Docket No. Q 4663 dt the 19th March 1904 from

From

H.K.V. Narasimhaiyangar, Esq.,
Offg Secy. to the Govt of His Highnes
the Maharaja of Mysore,
Gen. & Rev Dept'

To

The Secretary to the Govt.
of Mysore, Forest Departme,

Dated 19th March 1904.

Despatched

Received

General No. Q 4663

No.

Enclosure No. 1 & Encls

In forwarding herewith (in original to be ollicingly returned) letter No.17C dated the 30th January 1904 from the Superintendent, Amrut Mahal Department, regarding the erectic of cattle pounds at the expense of that Department and the crediting the collections therefo, has e honour to request that the Forest Secretary will be so good as to state what the practice is as regards construction of pounds by and the crediting of realizations to the Forest Department in the case of cattle pounds in Forests.

By order,

Clean copy (sd) H. S. C

For Offg. Secretary.

C.M. Compd.

III Dupl. 30/4, H.V.R. with Cattle book file sent 30/4/04

Putup for orders HBH 6/5/04

MYSORE GOVERNMENT GENERAL & REVENUE SECRETARIAT 30 APR 1904

No 794/8952

Mysore Forest Department

Dated, Bangalore 30th April 1904

Letter No 794/8952 dated, Bangalore, 30 April 1904

From M. Muttannah Esquire, R.B.,

Offg Secretary to Government of

His Highness the Maharaja of Mysore,

Forest Department.

To

L. Anantasami Rao Esquire, B.A.,

Offg Secretary to Government of

His Highness the Maharaja of Mysore,

General and Revenue Departments

Sir,

In reply to your docket No 4603 dated 14th instant, I have the honor to state that Forest Cattle Pounds are constructed at the cost of the Forest Department either in or in the vicinity of State Forests where Revenue Pounds are situated far away from them. The levy of fines, the manner of disposal of unredeemed cattle &c., are regulated by the rules issued under Notification No 200 dated the 9th October 1903 now still in force, the feeding charges of which have subsequently modified by Government Order No 5727-57/1902-500 dated 14th November 1902. The pounding fees [illegible] are credited to the Department, the charges also [illegible] to it. Only cattle trespassing in State Forests and Plantations without licenses are impounded and no others. I [illegible] I would impose [illegible] the Forest

[illegible] authorities impounding of cattle.

The 3 enclosures are returned.

I have the honor to be,

Sir,

Your most obedient servant,

Offg Secretary to Government,

Forest Department.

Read:-

Letter No.2500/5 dated the 5th February 1904 from the Military Assistant to the Govt of H.H.the Maharaja submitting for orders, letter No.176 dated the 30th January 1904 from the Superintendent of the Amrit Mahal Department requesting sanction to the ~~construction~~ establishment of cattle pounds in Amrit Mahal Kavals, wherever necessary, at the expense of the Department, those pounds being managed by the Amrit Mahal Department and the realizations credited to that Department in accordance with the practice prevailing in the Forest Department.

2. Letter No.704/~~3502~~ 8952 dated the 30th April 1904 from the late Secy to the Govt of H.H.the Maharaja in the Forest Department stating, in reply to this Office Docket No.64663 dated the 10th March 1904, that the Forest Cattle Pounds are constructed at the cost of the Forest Department within or in the vicinity of State Forests, where Revenue Pounds happen to be located far away from them, that the levy of fees and the ~~manner~~ of disposing of the cattle, etc are regulated by the rules issued under Notification No.[illegible] dated the 9th October 1880, which are still in force, and that the realizations

Subject to the Amrit Mahal Department may establish departmental pounds in the Amrit Mahal Kavals without any further action under the Cattle Trespass Act the Mysore Local Board Regulation, and that the fees applicable to Forest pounds shall apply to Amrit Mahal Kavals pounds

from these pounds are credited to the Forest Department, the charges also being debited to it.

§ 5 Read also the following:—

(1) 3. The Cattle Trespass Act of 1871 as amended by Regulation VIII of 1892.

(2) 4. The Mysore Forest Regulation XI of 1900.

(3) 5. The Mysore Local Boards Regulation II of 1902.

(4) 6. Rules for the administration of Forests and waste lands in the Territories of H.H. the Maharaja published under the Govt of India Notification No.588 dated the 8th June 1878.

(5) The subsidiary Rules published under the Chief Commissioner's Notification No.206 dated the 9th October 1889.

6) 8. Notification No.15283/L.F.374-92 dated the 15th March 1894 empowering the Presidents of Municipal and District Fund Boards to exercise certain powers and functions of the magistrate of the District under the Cattle Trespass Act in regard to Cattle pounds situate within the local jurisdiction of the respect ve Boards.

7) 9. Govt Pro No.347-55/L792-800 (Forest) dated the 14th November 1901 prescribing uniform rates for feeding animals in Forest Pounds.

F. I 03
C. 8 151. 2 Nov 93 Sept 11

Notification.

No 3634 3675-92
Mel For Misc

In exercise of the powers conferred by the Cattle Trespass Act of 1871, as in force in Mysore, and ~~by~~ the Mysore Local Boards Regulation II of 1902, and with reference to Sec 7 Cl (f) of the latter enactment the Govt of H.H the Maha-raja of Mysore are pleased to direct that the Cattle pounds ~~established~~ in, or in the vicinity of ~~the following tracts and established~~ solely for impounding cattle trespassing on such tracts shall be excepted from the control of District Boards:—

State Forests, lands placed under special protection under Sec 35 of the Mysore Forest Regulation of 1900 and Sandal Medal Karada.

2. The rules in force in ~~the Forest Department~~ as regards

the contr
~~Management~~ and the Main
tenance of ~~the Forest~~
~~Department Cattle~~ Cattle ~~into~~
established by the Forest Dept
Pounds shall apply
~~Mysore~~ established in
to those Amrit Mahal
~~Dept Kheda Pounds~~ Cattle
Kavals also.

By Order—

27.10.1904

Secretary.

To the Superintendent Govt Press Mysore
The ~~Gazette~~ Gazette for publication
in Part III with the request
that 20 spare copies of
the Notification may be
sent to this office.

Typed by
AV
27/10/04
Compared
Issued 65
or Requisn

Copy to the Military Asst
to the Govt of H H the
Maharaja of Mysore
" The Conservator of Forests
in Mysore
" The Inspector of Immigration

No 3635
mt 31/10/04

3536
mt 31/10/04

2nd copy
2 read.
3/11

No 3704—11
1375-92 34/11/04

Order thereon No 3671-80
L.375-92 3/2/04

The questions for decision are ~~[illegible]~~

(1) whether independently of the Local Boards, the Forest Department can establish and control, under the existing law and rules, cattle pounds for the areas within its jurisdiction and (2) whether a similar arrangement is not legally possible in the case of Amrit Mahal Kavals.

In C.S. Copies sent to the Collector of Salt & Conservator of Forests -

2. Government observe that the subsidiary rules framed and the Notifications published under the Rules of 1878 are still in force; and that the ~~Rules, on which~~ the former were ~~framed and published was~~ expressly repealed by clause(5) of section 1 of the Forest Regulation of 1900, ~~while~~ the above are expressly saved by the same clause, to the extent that they are not inconsistent with Regulation VI of 1900. This being so, and the Govt, while modifying the feeding rates for cattle impounded in Forest pounds fixed under Notification No.206 dated the 9th October 1889, having declared in para 2 of their Pro.No.547-55/1792-800, dated 14th November 1901, that ~~they did~~ not consider it desirable to abolish Forest Pounds or to remit or reduce the fines imposed in connection therewith

therewith and as the practice of main
-taining and controlling Forest Pounds
by the Forest Department continues
unaffected even to the present day,
the Cattle Trespass Regulation cannot
be considered to have rendered the
maintenance and control of Forest
Pounds by Forest Officers a legal im
-possibility. Moreover section 11 of
the Cattle Trespass Act is not appli
-cable to State Forests or District
Forests, since these are not covered
by any of the terms used therein viz
public roads, pleasure grounds, planta
-tions, canals, drainage works, em-
bankments and the like, the only term
which approaches natural grown Forests
are "plantations" which is not as
wide as the term "Forests". Hence,
Section 63 of the Forest Regulation
declares that "cattle trespassing in
a State or village forest or in a Dis
-trict Forest contrary to the provi-
sions of the section 35 and the rules
made thereunder, shall be deemed to
be cattle doing damage to a public
plantation within the meaning of sec-
tion 11 of the Cattle Trespass Act"
This doubtless legalizes the applica
-tion of the provisions of the Cattle
Trespass Act to Forest Areas, but with
-out over-riding those of the Forest
Regulation or the Rules framed there-
under

and though the provisions of the Cattle Trespass Regulation may be applied under section 63 of the Forest Regulation to Forest pounds maintained by the Forest Department, nothing precludes the Government from framing a separate set of rules, as occasion arises, for such pounds under sections 35 and 76 of the Forest Regulation. Moreover the Local Boards Regulation which does not expressly or impliedly repeal the provisions or the practice still in force regarding Forest pounds must be construed to have been enacted subject to the "exceptions and conditions"already existing or "as the Govt from time to time make and impose"and cannot render nugatory the provisions of the Forest Regulation or any Forest Rule in force. Under these circumstances Govt are pleased to declare the 1st question in the affirmative.

3. As regards the second question about Amrit Mahal Kavals Govt consider that they constitute "District Forests" within the meaning of clause 13 of section 2 of the Forest Regulation; and did constitute "District Forests" under the rules of 1878, repealed by the Forest Regulation. Amrit Mahal Officers are Forest officers within the meaning of clause

(1) of section 2 of the Forest Regulation which defines a "forest Officer and they discharge many functions of a Forest Officer as laid down in the Forest Regulation. Amrit Mahal Kavals thus stand on the same basis as the the Forests, there can be no doubt that cattle pounds may be established in the Amrit Mahal Kavals under (1) Cattle Trespass Act or the Mysore ~~Dis-trict~~ Boards Regulation. The rules applicable to Forest pounds will like-wise apply to Amrit Mahal Kaval poun

2. A Notification exempting from the control of District Boards cattle po established in or in the vicinity of the State Forests, ~~or~~ lands placed under special protection under section 35 of the Mysore Forest Regulation of 1900, and Amrit Mahal Kavals, solely for impounding cattle trespassing in such tracts will accordingly be published in the Gazette.

Secretary.

To

The Military Assistant to the Govt of H. H. the Maharaja of Mysore.

" Conservator of Forests in Mysore.

" Presidents of Municipal and District Boards.